

allegations are deemed to be allegations of fact, Defendant admits that it transacts business in New York.

4. To the extent the allegations set forth in Paragraph 3 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant admits that venue is proper in this District.

PARTIES

5. To the extent the allegations set forth in Paragraph 5 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in Paragraph 5 of the Complaint.

6. To the extent the allegations set forth in Paragraph 6 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant admits the allegations set forth in Paragraph 6 of the Complaint.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in the body of Paragraph 7 of the Complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in the body of Paragraph 8 of the Complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in the body of Paragraph 9 of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in the body of Paragraph 10 of the Complaint.

B. Defendant's Infringing Activities

11. Denies the allegations set forth in Paragraph 11 of the Complaint, except admits that on February 7, 2017, CNN's New Day ran a segment of approximately seven minutes entitled *Mother & Daughter Reunite After Travel Ban*.

12. Denies the allegation set forth in Paragraph 12 of the Complaint.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST CNN)
(17 U.S.C. §§ 106, 501)

13. Defendant repeats and realleges each of its above responses to Paragraphs 1 through 12 of the Complaint as if fully set forth at length herein.

14. To the extent the allegations set forth in Paragraph 14 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant denies the allegations set forth in Paragraph 14 of the Complaint.

15. To the extent the allegations set forth in Paragraph 15 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant denies the allegations set forth in Paragraph 15 of the Complaint.

16. To the extent the allegations set forth in Paragraph 16 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that

such allegations are deemed to be allegations of fact, Defendant denies the allegations set forth in Paragraph 16 of the Complaint.

17. To the extent the allegations set forth in Paragraph 17 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant denies the allegations set forth in Paragraph 17 of the Complaint.

18. To the extent the allegations set forth in Paragraph 18 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant denies the allegations set forth in Paragraph 18 of the Complaint.

19. To the extent the allegations set forth in Paragraph 19 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant denies the allegations set forth in Paragraph 19 of the Complaint.

20. To the extent the allegations set forth in Paragraph 20 of the Complaint are deemed to be allegations of law, Defendant is not required to plead thereto. To the extent that such allegations are deemed to be allegations of fact, Defendant denies the allegations set forth in Paragraph 20 of the Complaint.

PRAYER FOR RELIEF

With respect to the Wherefore clause in the Complaint, Defendant denies that Plaintiff is entitled to any relief, including a judgment against Defendant, damages, profits, costs, expenses, attorneys' fees, interest, or any other relief.

* * *

To the extent that the headings contained in the Complaint constitute allegations, such allegations are denied.

Each and every allegation contained in the Complaint not specifically admitted herein is denied.

DEFENSES

By alleging the Defenses set forth below, Defendant is not in any way acknowledging or conceding that it has the burden of proof on any issue or defense as to which applicable law places the burden on Plaintiff. Defendant reserves the right to amend its Answer and Defenses to assert such additional defenses as may later become available or apparent to it.

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim, in whole or in part, upon which relief can be granted.

SECOND DEFENSE

Plaintiff's claim is barred in whole or in part by the doctrine of fair use.

THIRD DEFENSE

Plaintiff's claims are barred in whole or in part by the doctrines of *de minimis* use.

FOURTH DEFENSE

Plaintiff's claim is barred in whole or in part because Defendant's conduct was not willful, but reasonable, justified, and in good faith.

FIFTH DEFENSE

Plaintiff's claim is barred in whole or in part by the doctrine of estoppel.

SIXTH DEFENSE

Plaintiff's claim is barred in whole or in part by the doctrine of waiver.

SEVENTH DEFENSE

Plaintiff's claim is barred in whole or in part by the doctrine of unclean hands.

EIGHTH DEFENSE

Plaintiff's claim is barred in whole or in part by the doctrine of laches.

NINTH DEFENSE

Plaintiff's claim is barred in whole or in part by the doctrine of misuse of copyright.

TENTH DEFENSE

Plaintiff's claim is barred in whole or in part because Defendant did not act with the requisite degree of intent or fault.

ELEVENTH DEFENSE

Plaintiff's alleged damages, if any, are limited by Defendant's innocent intent.

TWELFTH DEFENSE

Plaintiff's alleged damages are too speculative and imprecise.

THIRTEENTH DEFENSE

Plaintiff has failed to allege its purported actual damages with the requisite particularity.

FOURTEENTH DEFENSE

Plaintiff is not entitled to recover any of Defendant's profits because such profits, if any, are not attributable to any alleged infringement.

FIFTEENTH DEFENSE

Plaintiff is not entitled to recover any of Defendant's profits because such profits, if any, are duplicative of Plaintiff's actual damages, if any.

SIXTEENTH DEFENSE

Plaintiff is not entitled to statutory damages for willful infringement because if there has been any infringement (which Defendant denies), Defendant did not willfully, intentionally, recklessly or maliciously infringe Plaintiff's rights in the work at issue.

SEVENTEENTH DEFENSE

Plaintiff's alleged damages are unconstitutionally excessive and disproportionate to any actual damages that may have been sustained in violation of the Due Process clause.

EIGHTEENTH DEFENSE

Plaintiff's claim is barred in whole or in part to the extent that Defendant's actions and speech are protected by the First Amendment of the Constitution of the United States.

RELIEF REQUESTED

WHEREFORE, Defendant respectfully requests the following relief:

1. A judgment in favor of Defendant denying Plaintiff all relief requested in his Complaint in this action and dismissing Plaintiff's Complaint with prejudice;
2. That Defendant be awarded its costs of suit, including reasonable attorney's fees;
and
3. That the Court award Defendant such other and further relief as the Court deems just and proper.

Dated: New York, New York
June 16, 2017

DAVIS WRIGHT TREMAINE LLP

By: /s/ Elizabeth A. McNamara
Elizabeth A. McNamara
Jeremy A. Chase
1251 Avenue of the Americas, 21st Floor
New York, New York 10020
Tel: (212) 489-8230
Fax: (212) 489-8340

E-mail: lizmcnamara@dwt.com
jeremychase@dwt.com

*Attorneys for Defendant Cable News Network,
Inc.*

TO: Richard P. Liebowitz, Esq.
Liebowitz Law Firm, PLLC
11 Sunrise Plaza, Suite 301
Valley Stream, NY 11580
Tel: (516) 233-1660
E-mail: RL@LiebowitzLawFirm.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

On June 16, 2017, I caused the foregoing Answer to be filed with the Court's electronic case filing system and made available to all parties of record.

DAVIS WRIGHT TREMAINE LLP

By: /s/ Jeremy A. Chase_____